

Appl. No. 10/536,975
AMENDMENT of May 4, 2009
Reply to Office Action of February 3, 2009

REMARKS

This amendment responds in accordance with 37 C.F.R. § 1.111 to the Office Action of February 3, 2009.

Claims 1 through 32 are pending. Claims 1 through 6, 14, 15, and 17 through 23 are amended. Claims 7 through 13, 16, and 24 through 32 are canceled. No new matter is added.

A Power of Attorney and a Statement under 37 C.F.R. § 3.73(b) accompany this amendment. Please forward all correspondence to the attorney identified below.

No additional fee is believed to be due. If a fee is due, it may be charged to Deposit Account Number 12-1210.

Rejection under 35 U.S.C. § 102(b)

Claims 1 through 32 are rejected under 35 U.S.C. § 102(b) as being anticipated by FR 2 138 685 to Pierre. The Applicants traverse this rejection and request reconsideration.

Pierre discloses a hollow elongated member. However, according to Pierre, the hollow elongated member does not include each feature as in amended claim 1. The one lateral aperture present in Pierre is not arranged for receiving a beverage at a second temperature higher than a first temperature. Pierre does not disclose mixing of the beverage entering the opening in the Pierre device at the bottom of the hollow elongated member with beverage entering through at least one lateral aperture.

Pierre attempts to solve the problem of the collapsing of the bag towards the hollow elongated member during dispensing of the beverage. Pierre does not disclose dispensing a

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beverage at a homogenous temperature from a keg in which temperature stratification has occurred. This problem is not solved by Pierre because Pierre relates to a keg without temperature stratification.

The Applicants' invention provides a hollow elongated member that enables a beverage to be served at a homogenous temperature, for example, in the event there are multiple servings required from the keg with respect to a temperature stratification that can occur in the keg. The Applicants' invention comprises at least one lateral aperture provided for receiving a beverage at a second temperature higher than the first temperature. The beverage entering the opening is mixed with the beverage entering through the at least one lateral aperture. Because the hollow elongated member comprises lateral apertures at different strata of the keg having different temperatures, the beverage that is dispensed is always at a homogenous temperature.

Therefore, the Applicants submit that independent claim 1 and dependent claims 2 through 6, 14, 15, 17 through 22, and 23 are allowable. Pierre does not disclose each and every claimed element and does not meet the *prima facie* case of unpatentability.

Accordingly, it is requested that the rejection of the amended claims under 35 U.S.C. § 102(b) as being anticipated by FR 2 138 685 to Pierre be withdrawn.

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In view of the foregoing, it is submitted that this application is now in condition for allowance. Favorable consideration is requested.

Respectfully submitted,

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Date



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